

Senate Judiciary Committee

Exhibit No. 4
Date 1-24-05
Bill No. SB 196

Re: SB 196

Access to Court Records in Florida

Florida

Source: Westlaw

Florida Statutes

69.081. Sunshine in litigation; concealment of public hazards prohibited.

- (1) This section may be cited as the "Sunshine in Litigation Act."
- (2) As used in this section, "public hazard" means an instrumentality, including but not limited to any device, instrument, person, procedure, product, or a condition of a device, instrument, person, procedure or product, that has caused and is likely to cause injury.
- (3) Except pursuant to this section, no court shall enter an order or judgment which has the purpose or effect of concealing a public hazard or any information concerning a public hazard, nor shall the court enter an order or judgment which has the purpose or effect of concealing any information which may be useful to members of the public in protecting themselves from injury which may result from the public hazard.
- (4) Any portion of an agreement or contract which has the purpose or effect of concealing a public hazard, any information concerning a public hazard, or any information which may be useful to members of the public in protecting themselves from injury which may result from the public hazard, is void, contrary to public policy, and may not be enforced.
- (5) Trade secrets as defined in s. 688.002 which are not pertinent to public hazards shall be protected pursuant to chapter 688.
- (6) Any substantially affected person, including but not limited to representatives of news media, has standing to contest an order, judgment, agreement, or contract that violates this section. A person may contest an order, judgment, agreement, or contract that violates this section by motion in the court that entered the order or judgment, or by bringing a declaratory judgment action pursuant to chapter 86.
- (7) Upon motion and good cause shown by a party attempting to prevent disclosure of information or materials which have not previously been disclosed, including but not limited to alleged trade secrets, the court shall examine the disputed information or materials in camera. If the court finds that the information or materials or portions thereof consist of information concerning a public hazard or information which may be useful to members of the public in protecting themselves from injury which may result from a public hazard, the court shall allow disclosure of the information or materials. If allowing disclosure, the court

shall allow disclosure of only that portion of the information or materials necessary or useful to the public regarding the public hazard.

- (8) (a) Any portion of an agreement or contract which has the purpose or effect of concealing information relating to the settlement or resolution of any claim or action against the state, its agencies, or subdivisions or against any municipality or constitutionally created body or commission is void, contrary to public policy, and may not be enforced. Any person has standing to contest an order, judgment, agreement, or contract that violates this section. A person may contest an order, judgment, agreement, or contract that violates this subsection by motion in the court that entered such order or judgment, or by bringing a declaratory judgment action pursuant to chapter 86.
- (b) Any person having custody of any document, record, contract, or agreement relating to any settlement as set forth in this section shall maintain said public records in compliance with chapter 119.
- (c) Failure of any custodian to disclose and provide any document, record, contract, or agreement as set forth in this section shall be subject to the sanctions as set forth in chapter 119.

This subsection does not apply to trade secrets protected pursuant to chapter 688, proprietary confidential business information, or other information that is confidential under state or federal law.

- (9) A governmental entity, except a municipality or county, that settles a claim in tort which requires the expenditure of public funds in excess of \$5,000, shall provide notice, in accordance with the provisions of chapter 50, of such settlement, in the county in which the claim arose, within 60 days of entering into such settlement; provided that no notice shall be required if the settlement has been approved by a court of competent jurisdiction.